UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,584	02/04/2002	Mika Raitola	4925-187PUS	8338

7590   06/20/2006

Michael C Stuart
Cohen Pontani Lieberman & Pavane
Suite 1210
551 Fifth Avenue
New York, NY 10176

EXAMINER
MAIS, MARK A

ART UNIT	PAPER NUMBER
2616	

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No. 10/018,584	Applicant(s) RAITOLA, MIKA	
	Examiner Mark A. Mais	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *Preliminary Amendment of 4 February 2001*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-48* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *13 December 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

    1.☒ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date *13 December 2001*.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

The certified copy has been filed in parent Application No. PCT/EP99/04495, filed on June 29,

1999.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 13 December 2001 was filed after

the filing date of the Application on June 29, 1999. The submission is in compliance with the

provisions of 37 CFR 1.97. Accordingly, the examiner considered the information disclosure

statement.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

   The abstract should be in narrative form and generally limited to a single paragraph on a
separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed
150 words in length since the space provided for the abstract on the computer tape used by the
printer is limited. The form and legal phraseology often used in patent claims, such as "means"
and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist
readers in deciding whether there is a need for consulting the full patent text for details.

   The language should be clear and concise and should not repeat information given in the
title. It should avoid using phrases which can be implied, such as, "The disclosure concerns,"
"The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because it contains legal phraseology. Correction

is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign
country or in public use or on sale in this country, more than one year prior to the date of
application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another
filed in the United States before the invention thereof by the applicant for patent, or on an
international application by another who has fulfilled the requirements of paragraphs (1),
(2), and (4) of section 371(c) of this title before the invention thereof by the applicant for
patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002

do not apply when the reference is a U.S. patent resulting directly or indirectly from an

international application filed before November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA

35 U.S.C. 102(e)).

6. Claims 1-3, 5-12, and 14-48 are rejected under 35 U.S.C. 102(e) as being anticipated by

Kitagawa et al. (USP 6,603,980).

7. With regard to claim 1-3, Kitagawa et al. discloses a method for controlling a power used for

transmitting data between a terminal device (TD) and a transceiver device (BTS) of a

communication system **[See Abstract]**, said method comprising the steps of:

monitoring (S2) during a predetermined time unit **[Figs. 9 and 10; monitoring is

accomplished over a time period (the frames are interpreted as spanning timeslots, col. 4,

lines 1-2) whether in regular mode or compressed mode, col. 7, line 58 to col. 8, line 1;

accomplished by determining section 110, col. 4, lines 15-23]** the power used in a transmission

between said terminal device (TD) and said transceiver device (BTS) **[Fig. 2, col. 4, lines 8-12]**,

requesting (S3) an increase or a decrease of the power used in the transmission by using a

specific information element (TPC) for each predetermined time unit **[Fig. 2, TPC bit

generating section 109, col. 4, lines 12-14]**,

storing (S4) a predetermined number (w) of said specific information elements (TPC)

[Fig. 2, Accumulating section 113, col. 4, lines 24-33],

calculating (S5, S6) a first value and a second value concerning the power of

transmission during said predetermined number (w) of said specific information elements (TPC)

**[Fig. 2, Determining section 110 calculates the increase/decrease power TPC bit and the

amplitude of the TPC bit in the reception signal, col. 4, lines 15-23]**, and

deciding (S7) by using the first value and the second value concerning the power

calculated in said calculating step (S5, S6), whether the first value concerning the power is

greater than a sum of the second value concerning the power and a predetermined level (L) **[the increase/decrease power TPC bit value is multiplied by the correction value, col. 4, lines 50-59; an offset value is added to the transmit power value, col. 11, lines 51-55; *See Also*, col. 12, lines 14-27 for an explanation as to how the combined values are used to used to determine/decide what the value is]**.

8. With regard to claim 5, Kitagawa et al. discloses that the first value concerning the power represents a power raise for said predetermined number (w) of said specific information elements (TPC) **[TPC bit value of either 0 or 1, col. 4, lines 18-20]** and said second value concerning the power is an average power for said predetermined number (w) said specific information elements (TPC) **[Examiner interprets the average power as that calculated arbitrarily over a period of time, for example, col. 10, lines 36-50; col. 12, lines 39-44]**.

9. With regard to claim 6, Kitagawa et al. discloses that

if the decision in said deciding step (S7) is positive, inhibiting (S8) a power raise due to a request for increase the power in said requesting step (S3), and

if the decision in said deciding step (S7) is negative, allowing (S9) a power raise due to a request for increase the power in said requesting step (S3) **[TPC generating section determines what value TPC bit inhibits/allows (interpreted as increase/decrease) the transmit power TPC bit value, col. 5, lines 37-42]**.

10. With regard to claim 7 and 19-23, Kitagawa et al. discloses that the method is performed by

at least one of said terminal device (TD) and said transceiver station (BTS) **[col. 13, lines 52-54]**.

11. With regard to claims 8-9 and 24-33, Kitagawa et al. discloses that the method is performed

in downlink/uplink direction **[col. 13, lines 52-54]**.

12. With regard to claim 10-12, Kitagawa et al. discloses a device for controlling a power used

for transmitting data between a terminal device (TD) and a transceiver device (BTS) of a

communication system **[See Abstract]**, said device comprising:

monitoring means (10) for monitoring during a predetermined time unit **[Figs. 9 and 10;**

monitoring is accomplished over a time period (the frames are interpreted as spanning

timeslots, col. 4, lines 1-2) whether in regular mode or compressed mode, col. 7, line 58 to

col. 8, line 1; accomplished by determining section 110, col. 4, lines 15-23] the power used in

a transmission between said terminal device (TD) and said transceiver device (BTS) **[Fig. 2, col.**

4, lines 8-12],

requesting means (2û) for requesting an increase or a decrease of the power used in the

transmission by using a specific information element (TPC) for each predetermined time unit

[Fig. 2, TPC bit generating section 109, col. 4, lines 12-14],

storing means (40) for storing a predetermined number (w) of said specific information

elements (TPC) **[Fig. 2, Accumulating section 113, col. 4, lines 24-33]**,

calculating means (50) for calculating a first value and a second value concerning the

power of transmission during said predetermined number (w) of said specific information

elements (TPC) **[Fig. 2, Determining section 110 calculates the increase/decrease power TPC bit and the amplitude of the TPC bit in the reception signal, col. 4, lines 15-23]**, and

deciding means (60) for deciding (S7) by using the first value and the second value concerning the power calculated by said calculating means (50), whether the first value concerning the power is greater than a sum of the second value concerning the power and a predetermined level (L) **[the increase/decrease power TPC bit value is multiplied by the correction value, col. 4, lines 50-59; an offset value is added to the transmit power value, col. 11, lines 51-55;** *See Also*, **col. 12, lines 14-27 for an explanation as to how the combined values are used to used to determine/decide what the value is]**.

13. With regard to claim 14, Kitagawa et al. discloses that the first value concerning the power represents a power raise for said predetermined number (w) of said specific information elements (TPC) **[TPC bit value of either 0 or 1, col. 4, lines 18-20]** and said second value concerning the power is an average power for said predetermined number (w) said specific information elements (TPC) **[Examiner interprets the average power as that calculated arbitrarily over a period of time, for example, col. 10, lines 36-50; col. 12, lines 39-44]**.

14. With regard to claim 15, Kitagawa et al. discloses that the output means (70) for outputting a signal adapted to inhibit a power raise due to a request for increase the power made by said requesting means (20) if said deciding means (60) decides that the first value concerning the power is greater than the sum of the second value concerning the power and the predetermined level (L), or allow a power raise due to a request for increase the power made by said requesting

means (20) said comparing means (60) decides that the first value concerning the power is not

greater than the sum of the second value concerning the power and the predetermined level (L)

[TPC generating section determines what value TPC bit inhibits/allows (interpreted as

increase/decrease) the transmit power TPC bit value, col. 5, lines 37-42].

15. With regard to claim 16 and 34-38, Kitagawa et al. discloses that the method is performed

by at least one of said terminal device (TD) and said transceiver station (BTS) **[col. 13, lines 52-**

54].

16. With regard to claims 17-18 and 39-48, Kitagawa et al. discloses that the method is

performed in downlink/uplink direction **[col. 13, lines 52-54].**

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived
> by the manner in which the invention was made.

18. Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitagawa et

al. as applied to claims 1-3, 5-12, and 14-48 above.

19. With regard to claims 4 and 13, Kitagawa et al. does not specifically disclose that each one

of said specific information elements (TPC) used in each predetermined time unit is either -1

indicating a request for a decrease of power or +1 indicating a request for an increase of power.

However, as noted above, Kitagawa et al uses a binary format and asserts a value on the TPC bits

as either a 1 or 0. Using different binary formats are well known to those of ordinary skill in the

are. Moreover, Applicant has not indicated whether using a non-return to zero format provides

any difference to the invention, as claimed. Thus, it would have been obvious to one of ordinary

skill in the art at the time of the invention to have used a [+1, −1] format as opposed to a [1, 0]

format.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure:

(a) Grubb et al. (USP 5,768,684), Method and apparatus for bi-directional power control

in a digital communication system.

(b) Rohani et al. (USP 6,064,659) Method and system for allocating transmit power to

subscriber units in a wireless communications system.

(c) Tong et al. (USP 6,311,070) Variable step size for power control bits to protect

against power overshoot.

(d) Agin et al. (USP 6,337,988) Method for improving performances of a mobile radio communication system using a power control algorithm.

(e) van Heeswyk (USP 6,765,883) Adaptive power rate control CDMA system.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Mais whose telephone number is 572-272-3138. The examiner can normally be reached on M-Th 5am-4pm.

22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MAM
3/3/2006

SEEMA S. RAO   6/12/06
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600